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CARMEL GARCIA, M.Y. AND L.Y., minors by
and through their guardian ad litem VANESSA
RUIZ; L.Y., a minor by and through his guardian
ad litem FRANCISCA URIOSTEGUI

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CARMEL GARCIA, an individual; M.Y. AND
L.Y., minors by and through their guardian ad
litem VANESSA RUIZ; L.Y., a minor by and
through his guardian ad litem FRANCISCA
URIOSTEGUI,

Plaintiff,

v.

YUBA COUNTY SHERIFF'S
DEPARTMENT; YUBA COUNTY
SHERIFF'S DEPUTIES DOES 1-5; CITY OF
VACAVILLE; and VACAVILLE POLICE
OFFICER DOES 6-10;

Defendants.

Case No. 2:19-cv-02621-KJM-DB

**STIPULATION ALLOWING DEFENDANTS TO
FILE A STATEMENT OF UNDISPUTED FACTS
(LOCAL RULE 260(A)) IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT, AND
TO CONTINUE OPPOSITION AND REPLY
DEADLINES; ORDER**

Judge: Kimberly J. Mueller

STIPULATION ALLOWING DEFENDANTS TO FILE A STATEMENT OF UNDISPUTED FACTS (LOCAL RULE 260(A))
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT, AND TO CONTINUE OPPOSITION AND REPLY
DEADLINES; ORDER

Garcia et al. v. City of Vacaville, et al. 2:19-cv-02621-KJM-DB

1 WHEREAS, on September 30, 2022, Defendants CITY OF VACAVILLE, et al. filed a Motion
2 for Summary Judgment, or in the Alternative, Partial Summary Judgment (hereinafter the “Motion.”)
3 (Dkt. No. 68-69);

4 WHEREAS, on October 12, 2022, Plaintiffs CARMEL GARCIA, et al. filed an opposition to
5 Defendants’ Motion. (Dkt. No. 73);

6 WHEREAS, upon receipt of Plaintiffs’ opposition to the Motion, Defense counsel learned for the
7 first time that a statement of undisputed facts, as required by Local Rule 260(a), was inadvertently not
8 included with the Motion when it was filed on September 30, 2022. However, as set forth in the
9 statement of facts within the Motion, each material fact included a citation to the particular portions of
10 evidence to establish each fact;

11 WHEREAS, on October 13, 2022, counsel for the Parties met and conferred on the telephone
12 regarding the statement of undisputed facts and Plaintiffs’ counsel graciously agreed to stipulate to allow
13 Defendants to file a statement of undisputed facts, which will mirror the facts and evidence set forth in
14 the statement of facts within the Motion that was filed on September 30, 2022;

15 WHEREAS, on October 14, 2022, the Court issued a Minute Order wherein it continued the
16 hearing on the Motion from November 4, 2022 to December 9, 2022 and noted that a further hearing
17 continuance may be warranted because Defendants had not yet filed a statement of undisputed facts (Dkt.
18 No. 76);

19 WHEREAS, the Parties have agreed that Defendants will file their statement of disputed facts
20 pursuant to Local Rule 260(a) on October 14, 2022;

21 WHEREAS, in light of the Court’s continuance of the hearing, the Parties have agreed that
22 Plaintiffs will file a response to said separate statement of facts and amend their opposition accordingly
23 by October 28, 2022;

24 WHEREAS, the Parties have agreed that Defendants will file their reply by November 4, 2022;

25 WHEREAS, neither Party will be prejudiced by the terms of this stipulation;

26 WHEREAS, Defense counsel apologizes to the Court for the inadvertent omission of the
27 statement of undisputed facts with the Motion when it was filed on September 30, 2022. Typically,
28 Defense counsel’s assistant prepares the separate document regarding the statement of undisputed facts

STIPULATION ALLOWING DEFENDANTS TO FILE A STATEMENT OF UNDISPUTED FACTS (LOCAL RULE 260(A))
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT, AND TO CONTINUE OPPOSITION AND REPLY
DEADLINES; ORDER

Garcia et al. v. City of Vacaville, et al. 2:19-cv-02621-KJM-DB

1 based upon the facts and evidence cited in the statement of facts within the Motion. Defense counsel's
 2 current assistant is new to the firm and was unaware of the requirement to file a separate document
 3 regarding the statement of undisputed facts and Defense counsel regrettably and inadvertently did not
 4 ensure the separate document regarding the statement of undisputed facts was prepared and filed with the
 5 Motion on September 30, 2022;

6 WHEREAS, good cause exists to permit Defendants to file the statement of undisputed facts.
 7 First, to do so will ensure Defendants' Motion is in compliance with Local Rule 260(a). Second, it will
 8 avoid delay in an order being issued on the merits of Defendants' Motion. As cited by Plaintiffs in their
 9 opposition to the Motion, in the matter of *Bohannon-Hingston v. Brachfeld Law Grp.*, Defendant did not
 10 file a separate statement of undisputed facts as required by Local Rule 260(a) and the court denied
 11 Defendant's motion for summary judgment and granted leave to re-file the motion in compliance with
 12 the local rules. (Case No. CIV S-11-776 KJM-EFB, 2011 U.S. Dist. LEXIS 120456, at *1-2 (E.D. Cal.
 13 Oct. 17, 2011).) Therefore in an effort to avoid delay in addressing the merits of Defendants' Motion, the
 14 Parties submit that good cause exists to allow Defendants to file a statement of undisputed facts on
 15 October 14, 2022 and to continue the briefing schedule as set forth above.

16 STIPULATION

17 NOW, THEREFORE, Plaintiffs and Defendants submit this stipulated request to allow
 18 Defendants to file a statement of undisputed facts, as required by Local Rule 260(a), on October 14, 2022
 19 and for Plaintiffs to file a response and amended opposition to Defendants' statement of undisputed facts
 20 on or before October 28, 2022, and for Defendants to file a reply brief on or before November 4, 2022.

21 So stipulated.

22
 23 Dated: October 14, 2022

BERTRAND, FOX, ELLIOT, OSMAN & WENZEL

24 By: /s/ Sheila D. Crawford

Richard W. Osman

Sheila D. Crawford

Attorney for Defendants CITY OF

VACAVILLE, JULIE BAILEY,

CHUCK BAILEY, DUSTIN WILLIS, and

DAVE SPENCER

1 Dated: October 14, 2022

LAW OFFICES OF FULVIO F. CAJINA

2 By: /s/ Fulvio F. Cajina
3 Fulvio F. Cajina
4 Attorney for Plaintiffs CARMEL GARCIA,
5 M.Y. AND L.Y., minors by and through their
6 guardian ad litem VANESSA RUIZ; L.Y., a
7 minor by and through his guardian ad litem
8 FRANCISCA URIOSTEGUI

7 **ELECTRONIC CASE FILING ATTESTATION**

8 I, Richard W. Osman, hereby attest that I have on file all holograph signatures for any signatures
9 indicated by a conformed signature (“/s/”) within this E-filed document or have been authorized by
10 counsel to show their signature on this document as /s/.

11 Dated: October 14, 2022

By: /s/ Sheila D. Crawford
12 Sheila D. Crawford

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ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED:

Good cause appearing, Defendants are ordered to file the statement of undisputed facts, as required by Local Rule 260(a) by October 14, 2022; Plaintiffs may file the response to Defendants' statement of undisputed facts and an amended opposition by October 28, 2022; Defendants may file a reply, if any, by November 4, 2022. The hearing date on the Motion shall be December 9, 2022.

SO ORDERED.

DATED: October 25, 2022.


CHIEF UNITED STATES DISTRICT JUDGE